

**§ 20.6161-1 Extension of time for paying tax shown on the return.**

(a) *Basis for granting an extension of time*—(1) *Reasonable cause*. With respect to the estate of a decedent dying after December 31, 1970, an extension of time beyond the due date to pay any part of the tax shown on the estate tax return may be granted for a reasonable period of time, not to exceed 12 months, by the district director or the director of a service center, at the request of the executor, if an examination of all the facts and circumstances discloses that such request is based upon reasonable cause. (See paragraph (b) of this section for rules relating to application for extension.) The following examples illustrate cases involving reasonable cause for granting an extension of time pursuant to this paragraph:

*Example (1)*. An estate includes sufficient liquid assets to pay the estate tax when otherwise due. The liquid assets, however, are located in several jurisdictions and are not immediately subject to the control of the executor. Consequently, such assets cannot readily be marshaled by the executor, even with the exercise of due diligence.

*Example (2)*. An estate is comprised in substantial part of assets consisting of rights to receive payments in the future (i.e., annuities, copyright royalties, contingent fees, or accounts receivable). These assets provide insufficient present cash with which to pay the estate tax when otherwise due and the estate cannot borrow against these assets except upon terms which would inflict loss upon the estate.

*Example (3)*. An estate includes a claim to substantial assets which cannot be collected without litigation. Consequently, the size of the gross estate is unascertainable as of the time the tax is otherwise due.

*Example (4)*. An estate does not have sufficient funds (without borrowing at a rate of interest higher than that generally available) with which to pay the entire estate tax when otherwise due, to provide a reasonable allowance during the remaining period of administration of the estate for the decedent's widow and dependent children, and to satisfy claims against the estate that are due and payable. Furthermore, the executor has made a reasonable effort to convert assets in his possession (other than an interest in a closely held business to which section 6166 applies) into cash.

(2) *Undue hardship*—(i) *General rule*. In any case where the district director finds that payment on the due date of any part of the tax shown on the re-

turn, or payment of any part of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived) on the date fixed for payment thereof, would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed 10 years from the date prescribed in section 6151(a) for payment of the tax. See paragraph (a) of § 20.6151-1. In addition, if the district director finds that payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived would impose undue hardship upon the estate, he may extend the time for payment for a similar period or periods.

(ii) *Definition of "undue hardship"*. The extension provided under this subparagraph on the basis of undue hardship to the estate will not be granted upon a general statement of hardship or merely upon a showing of reasonable cause. The term "undue hardship" means more than an inconvenience to the estate. A sale of property at a price equal to its current fair market value, where a market exists, is not ordinarily considered as resulting in an undue hardship to the estate. The following examples illustrate cases in which an extension of time will be granted based on undue hardship pursuant to this paragraph:

*Example (1)*. A farm (or other closely held business) comprises a significant portion of an estate, but the percentage requirements of section 6166(a) (relating to an extension where the estate includes a closely held business) are not satisfied and, therefore, that section does not apply. Sufficient funds for the payment of the estate tax when otherwise due are not readily available. The farm (or closely held business) could be sold to unrelated persons at a price equal to its fair market value, but the executor seeks an extension of time to facilitate the raising of funds from other sources for the payment of the estate tax.

*Example (2)*. The assets in the gross estate which must be liquidated to pay the estate tax can only be sold at a sacrifice price or in a depressed market if the tax is to be paid when otherwise due.

(b) *Application for extension.* An application containing a request for an extension of time for paying the tax shown on the return shall be in writing, shall state the period of the extension requested, and shall include a declaration that it is made under penalties of perjury. If the application is based upon reasonable cause (see paragraph (a)(1) of this section), a statement of such reasonable cause shall be included in the application. If the application is based upon undue hardship to the estate (see paragraph (a)(2) of this section), the application shall include a statement explaining in detail the undue hardship to the estate that would result if the requested extension were refused. At the option of the executor, an application for an extension of time based upon undue hardship may contain an alternative request for an extension based upon reasonable cause if the application for an extension based upon undue hardship is denied. However, an application for an extension of time based solely upon reasonable cause will be treated as such even though an examination of all the facts and circumstances discloses that an application for an extension of time based upon undue hardship might have been granted had such an application therefor been made. If the application is based solely on reasonable cause, it shall be filed with the internal revenue officer with whom the estate tax return is required to be filed under the provisions of § 20.6091-1(a). If the application is based on undue hardship (including an application in which the executor makes an alternative request for an extension based on reasonable cause), it shall be filed with the appropriate district director referred to in paragraph (a)(2) of § 20.6091-1 whether or not the return is to be filed with, or the tax is to be paid to, such district director. An application, for an extension of time, relating to the estate of a decedent who was not domiciled in the United States at the time of death, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, DC. 20225. When received, the application will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain condi-

tions of which the executor will be notified. An application for an extension of time for payment of the tax, or of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived), will not be considered unless the extension is applied for on or before the date fixed for payment of the tax or installment. Similarly, an application for such an extension of time for payment of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived, will not be considered unless the extension is applied for on or before the date prescribed for payment of the deficiency as shown by the notice and demand from the district director. If the executor desires to obtain an additional extension of time for payment of any part of the tax shown on the return, or any part of an installment under section 6166 (including any part of a deficiency prorated to installment), it must be applied for on or before the date of the expiration of the previous extension. The granting of the extension of time for paying the tax is discretionary with the appropriate internal revenue officer and his authority will be exercised under such conditions as he may deem advisable. However, if a request for an extension of time for payment of estate tax under this section is denied by a district director or a director of a service center, a written appeal may be made, by registered or certified mail or hand delivery, to the regional commissioner with authority over such district director or service center director within 10 days after the denial is mailed to the executor. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday) apply in the case of appeals filed under this paragraph. When received, the appeal will be examined, and if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. If, in the mistaken belief that an estate satisfies the requirements of section 6166, the executor, within the time prescribed in

paragraph (e) of § 20.6166-1, files a notification of election to pay estate tax in installments, the notification of election to pay tax in installments will be treated as a timely filed application for an extension, under section 6161, of time for payment of the tax if the executor so requests, in writing, within a reasonable time after being notified by the district director that the estate does not satisfy the requirements of section 6166. A request that the election under section 6166 be treated as a timely filed application for an extension under section 6161 must contain, or be supported by the same information required by this paragraph with respect to an application for such an extension.

(c) *Special rules*—(1) *Payment pursuant to extension*. The amount of the tax for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the district director.

(2) *Interest*. The granting of an extension of the time for payment of the tax will not relieve the estate from liability for the payment of interest thereon during the period of the extension. See section 6601.

(3) *Duty to file timely return*. The granting of an extension of time for paying the tax will not relieve the executor from the duty of filing the return on or before the date provided for in § 20.6075-1.

(4) *Credit for taxes*. An extension of time to pay the tax may extend the period within which State and foreign death taxes allowed as a credit under sections 2011 and 2014 are required to be paid and the credit therefor claimed. See paragraph (c) of § 20.2011-1 and § 20.2014-6.

(d) *Cross references*. For provisions requiring the furnishing of security for the payment of the tax for which an extension is granted, see paragraph (a) of § 20.6165-1. For provisions relating to extensions of time for payment of tax on the value of a reversionary or remainder interest in property, see § 20.6163-1.

[T.D. 7238, 37 FR 28722, Dec. 29, 1972, as amended by T.D. 7384, 40 FR 49323, Oct. 22, 1975]

#### § 20.6161-2 Extension of time for paying deficiency in tax.

(a) In any case in which the district director finds that payment, on the date prescribed therefor, of any part of a deficiency would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed four years from the date prescribed for payment thereof. However, see § 20.6161-1 for extensions of time for payment of the part of a deficiency which is prorated to installments under the provisions of section 6166.

(b) The extension will not be granted upon a general statement of hardship. The term “undue hardship” means more than an inconvenience to the estate. It must appear that a substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the deficiency at the date prescribed therefor. If a market exists, a sale of property at the current market price is not ordinarily considered as resulting in an undue hardship. No extension will be granted if the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade the tax.

(c) An application for such an extension must be in writing and must contain, or be supported by, information in a written statement declaring that it is made under penalties of perjury showing the undue hardship that would result to the estate if the extension were refused. The application, with the supporting information, must be filed with the district director. When received, it will be examined, and, if possible, within thirty days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. The district director will not consider an application for such an extension unless it is applied for on or before the date prescribed for payment of the deficiency, as shown by the notice and demand from the district director. If the executor desires to obtain an additional extension, it must be applied for on or before the date of the expiration of the previous extension. The granting of the